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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,306	11/07/2001	Arvind S. Chakravarti	2000-0534	2036

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EXAMINER

PEARSON, YVETTE B

ART UNIT PAPER NUMBER

2144

DATE MAILED: 03/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/035,306	CHAKRAVARTI ET AL.	
	Examiner	Art Unit	
	Yvette Pearson	2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on March 22, 2002 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1 - 14 are presented for examination in the application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 4 – 8 and 10 – 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Faigon et al. (US 6,006,016.)
2. As per Claims 1 and 8, Faigon teaches a method for maintaining network performance having a communication device (Column 2, Lines 44 – 51; Figure 2) comprising the steps of:
 - a). periodically monitoring at least one attribute of the network element at successive first intervals ([fault rules determine fault occurrences] Column 2, Lines 52 – 64; Figure 10),
 - b). comparing each monitored attribute obtained to a corresponding threshold associated with the attribute to establish an historical trend (recorded faults are

stored in a fault database) for each network element (Column 2, Lines 64 – 67; Column 3, Lines 1 – 7; Column 7, Lines 1 – 4; Lines 27 - 36),

c). determining from the historical trend associated with each monitored element if there exists at least one critical attribute of each monitored element that warrants closer scrutiny ([meta traps] Column 7, Lines 1 – 4; Lines 11 – 14; Lines 27 - 36) and

d). periodically monitoring at least one critical attribute during successive second intervals ([state engine monitors the state of the network object] Column 8, Lines 43 – 45; Lines 66 – 67; Column 9, Lines 1 - 8; Figure 5), each shorter than each said first interval to determine whether each monitored element exhibits persistent performance degradation ([reduction rule] Column 14, Lines 17 – 30; Figure 12.)

3. As per Claims 4 - 7 and 10 - 13, Faigon teaches a network performance monitoring system as disclosed above wherein each successive first interval [(Event Threshold] Column 12, Lines 29 – 32; Figure 10, #1006) and successive second interval [(Escalation Threshold] Column 12, Lines 39 – 44; Figure 10, #1009), includes a variable time interval ([Time Interval] Column 12, Lines 4 – 8; Lines 29 – 36; Figure 10, #1007.)

4. As per Claim 14, Faigon teaches a network performance monitoring system as disclosed above further comprising the step of determining from the failure mode of the monitored element ([state engine monitors the state of the network object] Column 8, Lines 43 – 45; Lines 66 – 67; Column 9, Lines 1 - 8; Figure 5), if any additional

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attributes require monitoring upon detecting a performance degradation ([escalation trap] Column 13, Lines 59 – 65.)

5. Thus, Faigon discloses all limitations of the rejected claims; therefore Faigon anticipates the subject matter of Claims 1, 4 – 8 and 10 – 14.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Faigon et al. (US 6,006,016) in view of Cidon et al (US 6,269,330).

7. With respect to Claim 2, Faigon discloses a method for monitoring network performance having a communication device (Figure 2) as disclosed above in Claim 1, but fails to specifically teach altering the monitored network exhibiting performance degradation. However, Cidon discloses a similar method to test the performance of a data network that utilizes test scripts and commands to monitoring data flow through a Communication Network (Column 8, Lines 50 – 62; Column 7, Lines 7 – 17) whereby altering a monitored network exhibiting persistence performance degradation is implemented in response to problems encountered in the network (Column 6, Lines 3 –

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8), including using scripts to perform real-time interactive testing (Column 6, Lines 36 – 40) at successive intervals ([performed in a plurality of test stages] Column 8, Lines 7 – 9; Column 3, Lines 14 – 18.)

Therefore, it would have been obvious to one having ordinary skill in the art having the teachings of Faigon and Cidon before one at the time of the invention to teach Faigon's network diagnostic system, which when given certain criteria, provides probable causes and solutions in a networking system based on historical performance (Column 7, Lines 1 – 4), and to include Cidon's process to allow network management agents to accept commands to configure the node to which they are coupled in terms of its communication abilities (Column 2, Lines 45 – 47). The combination would teach an advanced network management system to identify specific problems in a network, correlate probable solutions and initiate corrective action in response to real-time communication.

8. With respect to Claims 3 and 9, the combination of Faigon and Cidon discloses a method for monitoring a network such that the network element exhibiting performance degradation is monitored in real time at successive intervals. Therefore, the claims are rejected for the same reasons as above.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
10. US 2001/0056486, (Kosaka) discloses a Network Monitoring Method that utilizes server monitors to transmit monitoring commands to network devices.
11. US 6,006,171, (Vines et al) discloses a Network Management System that integrates a CMMS system to link maintenance management data to users using a GUI interface.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvette Pearson whose telephone number is 571 272-4227. The examiner can normally be reached on 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Cuchlinski can be reached on 571 272-3925. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Yvette Pearson

Examiner

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